

STATE OF MICHIGAN
COURT OF APPEALS

HAROLD ECHOLS, JR., Personal Representative
of the Estate of HAROLD ECHOLS, SR.,
Deceased,

UNPUBLISHED
October 6, 2005

Plaintiff-Appellant,

V

Estate of WILLIAM E. GREEN, a
Protected Person,

No. 254139
Wayne Circuit Court
LC No. 03-305878-CZ

Defendant-Appellee.

Before: Saad, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Plaintiff appeals by right from the trial court's grant of summary disposition in favor of defendant.¹ Specifically, plaintiff claims the trial court erroneously concluded that his equitable restitution claim could not stand because his decedent had been adjudicated to have committed fraud in an earlier proceeding, and because the claims were barred by the doctrine of res judicata. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In the earlier proceeding, the Wayne Probate Court determined that the transfer of six pieces of real property from defendant, who was under a temporary conservatorship at the time of the transfer, was void ab initio due to plaintiff's decedent's fraud in procuring the transfer. The probate court denied plaintiff's subsequent motion for reconsideration. On plaintiff's appeal, the Wayne Circuit Court affirmed the determinations of the probate court. No additional appeals were filed from the judgments of the probate and circuit courts.

¹ The motion was brought pursuant to MCR 2.116(C)(7), (8) and (10). The trial court did not specify which subrule it used to grant the motion, but this Court will affirm the correct result of the trial court, even if the trial court used the wrong reasoning to reach that result. *Zimmerman v Owens*, 221 Mich App 259, 264; 561 NW2d 475 (1997). Furthermore, "an order granting summary disposition under the wrong subrule may be reviewed under the correct rule." *Stoudemire v Stoudemire*, 248 Mich App 325, 332 n 2; 639 NW2d 274 (2001).

In this case, plaintiff alleges a new claim against defendant to recover money plaintiff spent to repair, maintain and insure the properties while they were under plaintiff's purported ownership, as well as money spent to protect the properties from tax foreclosure. Plaintiff seeks recovery based on a theory of restitution for the unjust enrichment of defendant's estate. It is plaintiff's view that restitution is not an equitable claim, but a legal claim, and that the trial court improperly granted summary disposition to defendant on the basis that plaintiff's decedent's fraud in the underlying transaction barred plaintiff's recovery.

Despite plaintiff's protestations to the contrary, all of his claims are equitable in nature. See *Michigan Educational Employees Mutual Ins Co v Morris*, 460 Mich 180, 198-200; 596 NW2d 142 (1999), and *Hoffman v Auto Club Ins Ass'n*, 162 Mich App 424, 429; 413 NW2d 455 (1987). "One who seeks the aid of equity must come in with clean hands." *Isbell v Brighton Area Schools*, 199 Mich App 188, 189; 500 NW2d 748 (1993). Here, the trial court properly granted summary disposition to defendant because the clean hands doctrine bars equitable relief to a party entering with fraudulent purpose into an agreement. MCR 2.116(C)(10); *Rose v National Auction Group*, 466 Mich 453, 461-464; 646 NW2d 455 (2002). In light of our resolution of this issue, we decline to reach plaintiff's other allegation of error.

We affirm.

/s/ Henry William Saad
/s/ Kathleen Jansen
/s/ Jane E. Markey